MEMO

TO:	**MAYOR SUSAN NARVAIZ AND THE SAN MARCOS CITY COUNCIL**
	RICK MENCHACA, CITY MANAGER
FROM:	**HOWARD E. WILLIAMS, CHIEF OF POLICE**
DATE:	**MARCH 1, 2010**
RE:	**2009 RACIAL PROFILING REPORT**

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedures for law enforcement agencies to collect and report data concerning racial profiling for traffic stops in which officers issued citations, searches conducted pursuant to those stops, and arrests made. The attached report fulfills the reporting requirement of Article 2.132 of the Code of Criminal Procedures.

Under Article 2.135 of the Code of Criminal Procedure, the San Marcos Police Department is exempt from the reporting requirement on traffic and pedestrian stops under Article 2.134 because, during the preceding calendar year, each law enforcement motor vehicle regularly used by officers employed by the Department to make traffic and pedestrian stops was equipped with video camera and transmitter-activated audio equipment, and each traffic and pedestrian stop made by an officer employed by the Department that was capable of being recorded by audio/video or audio equipment, as appropriate, was recorded using the equipment.

The 2009 Racial Profiling Report reflects the total traffic citations issued, searches performed pursuant to those stops, and arrests made that were related to those searches from January 1, 2009 to December 31, 2009. In our analysis, we used population data for the City of San Marcos from the 2000 U.S. Census, and collision data from all reported collision in San Marcos in 2009. For the Fair Roads calculation, we used data from the 2000 U.S. Census, the latest data available for that calculation.

Dr. Hassan Tajalli, a statistician and Assistant Professor of Political Science at Texas State University / San Marcos, reviewed and analyzed the data collected by the San Marcos Police Department. His analysis indicated that officers stopped African American residents significantly more than expected. Conversely, officers stopped Hispanics significantly less than their share of presence in the community. For his calculations, Dr. Tajalli used data from the 2006-2008 American Community Survey, which poses some difficulties for demographic analysis. Additionally, Dr. Tajalli determined that that the ethnic distribution of searches is similar to the ethnic proportion of stops that officer conducted.

For comparison, we computed enforcement ratios using three different methods: the census data ratio based on the 2006-2008 American Community Survey, the fair roads ratio, and the collision data ratio. The three enforcement ratios show little difference in enforcement rates between races or ethnic groups. Additionally, after reviewing audio and video tapes from patrol vehicles, supervisors have reported no evidence of racial profiling by any officer, and the Department received no citizen complaints in 2009 regarding racial profiling.

City of San Marcos, Texas

2009 Racial Profiling Report

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedures for law enforcement agencies to collect and report data concerning racial profiling for traffic stops in which officers issue citations, conduct searches, and make arrests. This report to the City Council fulfills the reporting requirement of Article 2.132 of the Code of Criminal Procedures.

The San Marcos Police Department defines racial profiling as "a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity."[1] This report reflects the total number of traffic citations San Marcos Police Department officers issued during 2009, the number of searches that officers made relating to those citations, the number of those searches that officers conducted with the drivers' consent, and the number of arrests that officers made consequential to those searches.

The Department retained a statistician to perform an independent analysis, and we calculated three enforcement ratios based on different base populations. In the analysis of the data, we compared the citation and search data for 2009 to census data from 2000 for the City of San Marcos and to collision data from all reported collisions in San Marcos in 2009.

Independent Analysis

Dr. Hassan Tajalli, a statistician and Assistant Professor of Political Science at Texas State University / San Marcos, reviewed the data. Table 1, below, denotes citations San Marcos police officers issued in 2009, categorized by race/ethnicity of the person cited. This information comes from the data that officers collected on the citations and reported to the Municipal Court. We asked Dr. Tajalli to answer three questions for this report. A copy of his report is attached as Appendix A - Dr. Hassan Tajalli's Analysis Report.

Issue 1: Is there a statistically significant difference between the ethnic distribution of stops by San Marcos Police Officers and the ethnic distribution in the general population of San Marcos?

Answer: Statistical results indicated that San Marcos Police Officers stopped African American residents significantly more often than expected based on their

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[1] San Marcos Police Department Policies and Procedures Manual, General Order 203.III.D.

percentage of the population. Conversely, officers stopped Hispanics significantly less than their share of presence in the community.[2]

Issue 2: Is the ethnic distribution of searches different from the ethnic distribution of stops that San Marcos Police Officers conducted?

Answer: Statistical results indicated that ethnic distribution of searches is similar to the ethnic proportion of stops San Marcos Police Officers conducted.

Issue 3: Is there a racial profiling in bringing charges against those who San Marcos Police Officers stopped?

Answer: Statistical results indicate that a disproportionately higher percentage of Hispanics who San Marcos Police Officers stopped were subject to charges.

Table 1. Total Citations, Searches, and Arrests

Race/Ethnicity	Citations	Searches	Consent to Search	Total Charges
White	**4159**	**346**	**152**	**293**
Male	2751	283	127	243
Female	1399	63	25	50
Hispanic	**1926**	**223**	**100**	**180**
Male	1328	191	84	155
Female	598	32	16	25
African-American	**348**	**34**	**16**	**27**
Male	257	31	14	25
Female	90	3	2	2
Asian-American	**45**	**5**	**3**	**2**
Male	32	4	2	2
Female	13	1	1	0
American Indian	**1**	**0**	**0**	**0**
Male	1	0	0	0
Female	0	0	0	0

To avoid using stale data from the 2000 Census for his analysis to compare the demographics of traffic stops to the demographics of San Marcos, Dr. Tajalli used data from the 2006-2008 American Community Survey. However, there is a problem with using this data. Article 2.132 of the Code of Criminal Procedure details the categories of race and ethnicity for the required yearly report: Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern. The American Community Survey does not use the same racial categories, and it does not include Hispanic as a race. Hispanic is only included as an ethnic component of other races. Therefore, the number of Hispanics reported in the American Community Survey constitute double counting. Additionally, 23.2 percent of San Marcos residents identify their race as other on the American Community Survey (see Table 2. American Community Survey Demographic Data). Officers would normally list that 23.2 percent as one of the other races when completing a citation, and there is no way to know in what percentages officers recorded those data on the citations. Therefore, comparing demographic data on citations to data from the American Community Survey provides little utility.

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Table 2. American Community Survey Demographic Data

ACS Demographic Estimates – San Marcos, TX	Estimate	Percent	U.S.
One race	43,165	99.2	97.8%
White	29,923	68.8	74.3%
Black or African American	2,282	5.2	12.3%
American Indian and Alaska Native	208	0.5	0.8%
Asian	668	1.5	4.4%
Native Hawaiian and Other Pacific Islander	0	0.0	0.1%
Some other race	10,084	23.2	5.8%
Two or more races	331	0.8	2.2%
Hispanic or Latino (of any race)	15,038	34.6	15.1%

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Enforcement Ratios

Every year, cities across Texas struggle to define the service population that forms the basis for racial profiling reporting, and San Marcos is no different. Census data simply do not account for students residing in San Marcos, for employees or workers who commute to town each day, for visitors and tourists, and for the uncounted thousands of people who drive through town every day on IH-35 and the rest of the state highway system.

Consequently, better to describe citation data, we calculated three enforcement ratios. These ratios use different base populations that either are in use or are favored by other cities or by interested citizen groups. These three enforcement ratios are the census data ratio, the fair roads ratio, and the collision data ratio. Table 3 – 2009 Enforcement Ratios – summarizes the

three ratio calculations. As the table shows, there is little difference between the enforcement ratios, although the ratios change depending on the method selected.

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Table 3. 2009 Enforcement Ratios

Race/Ethnicity	Census Data Ratio	Fair Roads Ratio	Collision Data Ratio
White	1.14	0.98	1.06
Hispanic	0.80	0.99	0.88
African-American	0.99	1.45	1.08
Asian-American	0.57	0.70	0.95

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The census data calculation is a ratio of the percentage of citations that San Marcos police officers write to different race/ethnic groups compared to the percentage each race/ethnic group represents in the 2000 census. Table 4 contains the census data calculations.

The fair roads calculation is a ratio of the percentage of citations San Marcos police officers write to different race/ethnic groups compared to the percentage of households by race/ethnic group that have vehicles available to drive, according to 2000 census data. Table 5 contains the fair roads calculations.

The collision data calculation is a ratio of the percentage of citations San Marcos police officers write to different race/ethic groups compared to the percentage each race/ethic group represents of drivers in all the collisions reported to the San Marcos Police Department. Table 6 contains the collision data calculations.

Census Data Ratio

Table 4 defines the citations to census data ratio, comparing the percentage of citations issued to each racial/ethnic group in 2009 to the percentage that each group represents in the 2000 census. A ratio of 1.00 means that officers cite a racial/ethnic group proportionally to that group's percentage of the population. A ratio greater than 1.00 means that officers are citing a group more often than that group's percentage of the population, and a ratio less than 1.00 means that officers are citing a group less often than that group's percentage of the population.

From the census data, it appears that in 2009 officers cited whites at a rate higher than their percentage of the population (1.14). Hispanics and African-Americans received fewer citations than their percentages of the population (0.80 and 0.99, respectively). The calculation for African-Americans is significantly lower than Dr. Tajalli's calculation using the American

Community Survey. Asian-Americans received far fewer citations than their percentage of the population (0.57), but, because the number of Asian-Americans cited and the number in the population are so small, this variation was not significant. See Table 4 – Citation to Census Ratio.

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Table 4. Citations to Census Ratio

Race/Ethnicity	2000 Census Data	% in the Census	2009 Citations	% of Citations	Census Data Ratio
White	19,165	56.17%	4,159	64.20%	1.14
Hispanic	12,676	37.15%	1,926	29.73%	0.80
African-American	1,860	5.45%	348	5.37%	0.99
Asian-American	418	1.23%	45	0.69%	0.57
Total	34,119		6,478		

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Comparing citations to census data has only one advantage – the data are stable, meaning we can compare results from year to year because the census data do not change. Unfortunately, the census method has several shortcomings.

- As census data ages, it may not reflect current population percentages.
- Census data include everyone living in San Marcos, not just people of driving age.
- Census data count only those people living in San Marcos, not people attending Texas State University whose permanent residence is elsewhere, commuters, visitors, shoppers, or those who are driving through town. However, all of those people are subject to being stopped and cited, thus affecting the enforcement ratio.

Fair Roads Ratio

Table 5 defines the fair roads ratio, a comparison of the percentages of citations issued by race/ethnicity in 2009 compared to the percentages of households with vehicles according to the 2000 census. The fair roads ratio is an attempt to filter census data to exclude from the computations those people who do not have cars. A ratio of 1.00 means that officers cite a racial/ethnic group proportionally to that group's percentage of households with vehicles available to drive. A ratio greater than 1.00 means that officers are citing a group more often than that group's percentage of households with vehicles available to them, and a ratio less than 1.00 means that officers are citing a group less often than that group's percentage of households with vehicles available to them.

From the fair roads data, it appears that in 2009 officers cited whites and Hispanics at a rate slightly lower than their percentage of households with access to vehicles (0.98 and .099, respectively). African-Americans received citations at a rate higher than their percentage of households with vehicles available to drive (1.45). Asian-Americans received far fewer citations than their percentage of households with vehicles (0.70). However, because the numbers of Asian-Americans cited and the numbers of households are so small, that variation is not significant. See Table 5 – Fair Roads Ratio.

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Table 5. Fair Roads Ratio

Race/Ethnicity	Households with Cars	% in the Census	2009 Citations	% of Citations	Fair Roads Standard
White	7,465	65.32%	4,159	64.20%	0.98
Hispanic	3,426	29.98%	1,926	29.73%	0.99
African-American	424	3.71%	348	5.37%	1.45
Asian-American	113	0.99%	45	0.69%	0.70
Total	11,428		6,478		

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The fair roads ratio has some advantages over the census data, because it attempts to count only the population that has access to a vehicle, but it is also subject to criticism.

- The percentages of households with vehicles comes from the 2000 census data, and, as the data ages, it may not reflect current population percentages.
- The fair roads ratio does not account for the number of vehicles per household, the number of drivers per vehicle, the number of drivers per household, or the number of miles or hours per day that someone drives the vehicle.
- The fair roads ratio includes only people living in San Marcos, not those attending Texas State University whose permanent residence is elsewhere, commuting to work each day, visiting, or driving through town, yet all of those groups are subject to being stopped and cited, thus affecting racial profiling statistics.
- The ratio requires a comparison of dissimilar things: percentages of people cited to percentages of households. A more effective measure would be the percentage of households receiving citations.

Collision Data Ratio

Table 6 defines the citations to collision data ratio, comparing the percentage of citations issued to each racial/ethnic group in 2009 to the percentage that each group represents in the 2009 collision data. A ratio of 1.00 means that officers cite a racial/ethnic group proportionally to that group's representation in the collision data. A ratio greater than 1.00 means that officers are citing a group more often than that group's representation in the collision data, and a ratio less than 1.00 means that officers are citing a group less often than that group's representation in the collision data.

From the collision data ratio, it appears that officers are citing whites and African Americans at a rate slightly higher than their percentage of involvements in collisions (1.06 and 1.08, respectively). Asians and Hispanics received citations at a rate slightly lower than their percentage of involvements in collisions (0.95 and 0.88, respectively). See Table 6 – Citation to Collision Data Ratio.

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Table 6. Citations to Collision Data Ratio

Race/Ethnicity	Collisions	% of Collisions	2009 Citations	% of Citations	Ratio of Citations to Collisions
White	1,416	60.64%	4,577	64.12%	1.06
Hispanic	786	33.66%	2,127	29.80%	0.88
African-American	116	4.97%	387	5.42%	1.08
Asian-American	17	0.73%	47	0.66%	0.95
Total	2,335		6,478		

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The collision data ratio has several advantages.

- The collision data ratio includes only those people who were driving and were thus subject to being stopped and cited.
- The collision data ratio includes drivers who live in San Marcos, but it also includes those who are attending Texas State University, who are commuting to work each day, who are visiting, or who are simply driving through town.
- The data on collisions refreshes each year so it more accurately reflects current demographics of those driving in San Marcos.

The collision data ratio has some problems, however.

- The analysis is based on the assumption that collisions are randomly distributed throughout racial/ethnic groups.
- The collision data may be skewed toward younger drivers because younger drivers tend to have more collisions, although younger drivers also tend to constitute a larger percentage of drivers cited for violations.

Other Measures

San Marcos Police Department policies require supervisors once each quarter to review for signs of racial profiling the video tapes from each officer's vehicle. The supervisors reported that they saw no indications of racial profiling on the tapes that they reviewed for 2008. The Department received no citizen complaints regarding racial profiling.

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Table 7. Three-Year Enforcement Ratio Comparison

	Census Data Ratios			Fair Roads Standard Ratios			Collision Data Ratios		
	2007	*2008*	*2009*	*2007*	*2008*	*2009*	*2007*	*2008*	*2009*
Race/Ethnicity									
White	1.07	1.14	1.14	0.92	0.98	0.98	1.02	1.05	1.06
Hispanic	0.91	0.80	0.80	1.13	0.99	0.99	0.97	0.90	0.88
African American	0.93	0.99	0.99	1.36	1.46	1.45	1.07	1.11	1.08
Asian American	0.51	0.54	0.57	0.64	0.67	0.70	0.60	0.84	0.95

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APPENDIX A

Dr. Hassan Tajalli's Analysis Report

Racial Profiling Report
City of San Marcos
2009

Issue 1: Is there a statistically significant difference between the ethnic distribution of **_'stops'_** by the SMPD officers and the ethnic distribution in the general population of San Marcos?

Answer*: The findings do not support the presence of racial profiling by the SMPD officers **_stopping_** Hispanics and White ethnic groups. Results, however, indicate that African American residents were stopped by the SMPD officers significantly more than expected. Conversely, Hispanics were stopped significantly less than their share of presence in the community. chi-square (2, n=7,763) = 19.39, p<.001

* *Based on the proportion of Hispanics, White and African Americans in the City of San Marcos. Source: U.S. Census, 2006-2008 American Community Survey http://factfinder.census.gov/servlet/ACSSAFFFacts?_event=&geo_id=16000US4865600&_geoContex*

Issue 2: Is the ethnic distribution of **'searches'** different than the ethnic distribution of 'stops' that were conducted by the SMPD officers?

Answer*: Results indicate that ethnic distribution of searches is similar to the ethnic proportion of stops conducted by SMPD officers. In other words, searches by SMPD officers were not based on racial profiling. chi-square (2, n=629) = 2.45, p>.05

* *Based on the proportion of Hispanics, White and African Americans who were **stopped** by the SMPD officers.*

Issue 3: Is there a racial profiling in bringing charges against those who were **'stopped'** by the SMPD officers?

Answer*: Results indicate that disproportionately higher percentage of Hispanics who were stopped by the SMPD officers were subject to charges. This finding, however, does not apply to African Americans. chi-square (2, n=599) = 6.83, p<.05

* *Based on the proportion of Hispanics, White and African Americans who were **stopped** by the SMPD officers.*